



STATE OF INDIANA

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June 15, 2010

Mr. William Evans
Richland Township Trustee
102 South Park Street
Ellettsville, IN 47429
bevans@smithville.net

Re: Informal Inquiry 10-INF-27; Richland Township

Dear Mr. Evans:

This is in response to your informal inquiry regarding Richland Township Board (the "Board"). Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry. My opinion is based on applicable provisions of the Indiana Open Door Law ("ODL"), I.C. § 5-14-1.5-1 *et seq.*

In your inquiry, you ask whether the Board violated the ODL by holding a meeting on December 3, 2008. According to your inquiry, that meeting "was not properly advertised, and a notice for the meeting was not posted at the Trustee office." You do not explain the purpose of that meeting or who attended.

The General Assembly enacted the ODL with the intent that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. I.C. § 5-14-1.5-3(a).

A "meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. I.C. § 5-14-1.5-2(c). If a majority of the Board gathered for the purpose of taking official action upon public business, the Board held a "meeting" within the meaning of the ODL.

If a governing body conducts a "meeting" as defined by the ODL, the law requires that public notice of the date, time, and place of the meeting be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) in advance. I.C. § 5-14-1.5-5(a) (emphasis added). In addition to providing notice to any news media who

by January 1 of the year have requested notice, the agency must post notice at the principal office of the agency or, if there is no office, at the building where the meeting will be held. I.C. § 5-14-1.5-5(b). Notice has not been given in accordance with Section 5 of the ODL if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting. I.C. §5-14-1.5-5(h). If the Board conducted a meeting and failed to provide notice in accordance with Section 5 of the ODL, the Board violated the ODL.

Your inquiry also seeks guidance regarding the Richland Township Trustee's failure to attend the December 3rd meeting and failure to file a Uniform Conflict of Interest Disclosure form. Because those issues are outside the purview of this office, I have not authority to opine on them. *See* I.C. § 5-14-4-10. However, I note that your allegations of criminal acts would be most appropriately directed to your local county prosecutor's office.

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor